

APPENDIX II-C

RULEMAKING NOTICE FORM

Notice Number _____

Rule Number He-E 502

1. Agency Name & Address:

**NH Dept. of Health & Human Services
Division of Long Term Supports and
Services
Bureau of Elderly & Adult Services
105 Pleasant St., Main Bldg.
Concord, NH 03301**

2. RSA Authority: RSA 161-F:4

3. Federal Authority: _____

4. Type of Action:

Adoption _____

Repeal _____

Readoption _____

Readoption w/amendment X

5. Short Title: **Older Americans Act Services (Title III)**

6. (a) Summary of what the rule says and of any proposed amendments:

The Department of Health and Human Services (Department) is proposing to readopt He-E 502 with amendment. He-E 502 describes eligibility for, services covered by, and provider requirements for services funded under the Older Americans Act (OAA) 42 USC 3001 et. seq.

Specific proposed changes to rule He-E 502 are as follows:

- **Remove the requirement that individuals be homebound to receive home delivered meals;**
- **Eliminate the requirement that home delivered meal providers contact participants “face-to-face” and replace with a requirement for “direct contemporaneous contact” instead, which will allow additional options such as telephone and video chat contact in addition to traditional face-to-face contact;**
- **Revise the definitions section He-E 502.02 to clarify that “elderly” under RSA 161-F:1 and “older individual” under 42 USC 3002 are the same, namely individuals 60 years of age or older;**
- **Require contract agencies provide notice to individuals when services will be reduced or significantly altered;**
- **Clarify that contract agencies shall follow the most recent “Dietary Guidelines for Americans” as published by the US Department of Agriculture and update the appendix on how to access the guidelines; and**
- **Remove “adult non-medical day program” from the rule as the Department does not currently provide contracts for these services.**

Section 3222(c) Coronavirus Aid, Relief, and Economic Security (CARES) Act P.L. 116-136 requires New Hampshire to categorize all individuals as homebound when following the required social distancing guidelines for the purposes of administering home delivered meals using OAA funds while under the COVID-19 public health emergency pursuant to 42 USC

247d. While operating under the flexibility required by P.L. 166-136 § 3222(c) OAA providers discovered many clients desired takeout meal services, meaning meals picked up at a congregate site but not consumed there. Since the federal definition of congregate meals requires that meals be consumed on site, OAA providers cannot offer takeout meals under the existing rules once the COVID-19 public health emergency pursuant to 42 USC 247d expires. He-E 502 is being amended to allow takeout services to continue once the COVID-19 public health emergency expires and the requirement to treat all individuals as homebound pursuant to P.L. 116-136 § 3222(c) is no longer in effect.

6. (b) Brief description of the groups affected:

Older Americans who are deemed eligible to receive delivered meals.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	Specific State or Federal Statute or Regulation the Rule Implements
He-E 502.01- He-E 502.32	RSA 161-F:4; 42 USC 3001 et. seq.

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Nicole Burke**

Title: **Rules Coordinator –
Administrative Rules Unit**

Address: **Dept. of Health and Human Services
Administrative Rules Unit
129 Pleasant Street, 2nd Floor
Concord, NH 03301**

Phone #: **(603) 271-9640**

Fax#: **(603) 271-5590**

E-mail: Nicole.V.Burke@dhhs.nh.gov

TTY/TDD Access: Relay NH 1-800-735-2964
or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:

<http://www.dhhs.nh.gov/oos/aru/comment.htm>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Wednesday, December 1, 2021**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Monday, November 22, 2021 at 11:00 am**

Place: [**DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH**](#)

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 21:107 , dated 10/12/2021

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rules, the proposed rules may increase benefits to state citizens by an indeterminable amount.

2. Cite the Federal mandate. Identify the impact on state funds:

None.

3. Cost and benefits of the proposed rule(s):

The Department of Health and Human Services expects the proposed rule to result in more home-delivered meals being provided. As home-delivered meals are generally less expensive than congregate meals, the Department expects the overall cost of meals to decrease even as more meals may be delivered. The Department notes that the FY 2022/23 budget for congregate and home-delivered meals is a fixed amount and will not change as a result of this rule.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

The Department of Health and Human Services states that citizens age 60 and older who are living independently and have limited capacity to prepare their own food, but who are not homebound, will benefit by being eligible to receive home-delivered meals.

C. To independently owned businesses:

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rule He-E 502 modifies an existing program or responsibility, but does not mandate any fees, duties, or expenditures on the political subdivisions of the state, and therefore does not violate Part I, Article 28-a of the N.H. Constitution.

Readopt with amendment He-E 502, effective 2-28-14 (Document #10530), to read as follows:

PART He-E 502 OLDER AMERICANS ACT SERVICES: TITLE IIIB – SUPPORTIVE SERVICES, TITLE IIIC1 AND C2 – NUTRITION PROGRAM POLICIES, AND TITLE IIID – DISEASE PREVENTION AND HEALTH PROMOTION SERVICES

He-E 502.01 Purpose and Goals.

(a) The purpose of the rule is to describe:

- (1) The services administered by the NH department of health and human services (DHHS), bureau of elderly and adult services (BEAS) through the Older Americans Act (Title III) to those individuals who meet the eligibility requirements contained in these rules; and
- (2) The eligibility requirements for these services.

(b) In accordance with the Older Americans Act, Title III services shall be directed toward one or more of the goals contained in 45 CFR 1321 and 42 U.S.C. 3001, with emphasis placed on serving the following groups of individuals:

- (1) Individuals with severe disabilities;
- (2) Low income minority ~~elderly~~-older individuals;
- (3) Native Americans;
- (4) ~~Elderly~~-Older individuals in greatest social or economic need;
- (5) ~~Elderly~~-Older individuals residing in rural areas; and
- (6) ~~Elderly~~-Older individuals with limited English proficiency.
- (7) Older individuals at risk for institutional placement.

He-E 502.02 Definitions.

(a) “Activities of daily living (ADLs)” means activities such as grooming, toileting, eating, dressing, getting into or out of a bed or chair, walking, and monitoring and supervision of medications.

(b) “Adult” means “adult” as defined in RSA 161-F:1, I, namely “any person 18 years of age or older.”

(c) “Adult protective services (APS) program” means the program which encompasses all the tasks and responsibilities completed in accordance with the adult protection law, RSA 161-F:42-57.

(d) “Appeal” means a request by a person adversely affected by the NH department of health and human service’s or contract agency’s decision or action to review that decision or action in accordance with the provisions of RSA 126-A:5, VIII.

(e) “Authorized representative” means any adult other than a bureau of elderly and adult services staff member or contract agency representative who is 18 years of age or older, and who, with the individual’s permission, acts on behalf of the individual during all aspects of initial or continuing eligibility determination for Title III services or under the authority of a guardianship order.

(f) “Bureau of elderly and adult services (BEAS)” means the New Hampshire department of health and human services’ bureau of elderly and adult services.

(g) “Catchment area” means the geographic area where the contract agency provides Title III services, as identified in the agency’s contract with BEAS.

(h) “Communication access” means, when necessary and appropriate, providing communication assistance to individuals, who are:

- (1) Non-English speaking or have limited English proficiency;
- (2) Deaf, experiencing a degree of hearing loss, or have auditory processing challenges;
- (3) Visually impaired; or
- (4) Speech impaired.

(i) “Contract agency” means the agency under contract with BEAS to provide one or more services or activities as described in this part.

(j) “Donation” means a voluntary contribution made by an individual receiving Title III services that is used to support the cost of these services.

~~(k) “Elderly” means “elderly” as defined in RSA 161-F:1, V, namely “a person 60 years of age or older.”~~

~~(k)~~ (H) “Evidence-based” means that a program or intervention has been published in a peer-review journal and demonstrated through evaluation to be effective for improving the health and well-being or reducing disease, disability and/or injury among ~~elderly adults~~ older individuals.

~~(l)~~ (M) “Federal poverty guidelines” means the poverty guidelines updated periodically in the *Federal Register* by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).

~~(n)~~ (M) “Greatest economic need,” as defined by the Older Americans Act, means the financial need resulting from an income at or below the federal poverty guidelines.

~~(n)~~ (P) “Greatest social need,” as defined in the Older Americans Act, means the need caused by non-economic factors, which include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation, including isolation caused by racial or ethnic status that restricts the ability of an individual to perform normal daily tasks or threatens the ability of the individual to live independently.

~~(o)~~ (P) “Group educational service/activity” means an event or meeting during which educational or informational material is presented to a group of 2 or more individuals.

~~(q) “Homebound” means that an individual is unable to leave home without difficulty because of chronic illness or disability.~~

~~(p)~~ (P) “Housecleaning” means duties related to household cleanliness including, but not limited to, mopping floors, vacuuming, laundry, changing bed linens, dusting, and other tasks related to sanitation within an individual’s living environment.

~~(q)~~ (S) “Independent living situation” means one of the following living arrangements:

- (1) The individual’s own home, apartment, or room;

(2) The home or apartment of a spouse/partner, relative, or friend where the individual also resides;

(3) A motel or hotel; or

(4) A homeless shelter.

(~~it~~) “Individual” means the adult requesting or receiving the Title III social services described in He-E 502.05 and He-E 502.06.

(~~st~~) “Informal resolution” means the process described in He-E 502.10 that is conducted when an individual, or his/her authorized representative, disagrees with an eligibility or termination determination.

(~~tv~~) “Licensed practitioner” means a medical doctor, physician’s assistant, advanced practice registered nurse, doctor of osteopathy, doctor of naturopathic medicine, or anyone else with diagnostic and prescriptive powers who is licensed by the appropriate New Hampshire licensing board.

(~~uw~~) “Limited English proficiency” means the inability of an individual to speak English as their primary language, and whose skills in listening, speaking, or reading English are such that the individual cannot adequately understand and participate in their care, or in the services provided to them, without language assistance, the provision of communication access services or communication devices.

(~~v~~) “Older individual” means “older individual” as defined in 42 USC 3002(40), namely “an individual who is 60 years of age or older.” The term includes “elderly” as defined in RSA 161-F:1, V.

(~~xw~~) “Nursing facility” means a licensed nursing facility as defined in RSA 151-C:2, XXVI.

(~~xy~~) “Person-centered” means that the individual and/or his or her authorized representative or caregiver is the center of the system of care, and the individuals’ needs and preferences drive the care and services provided.

(~~yz~~) “Protective services” means “protective services” as defined in RSA 161-F:43, I, namely, “services and action which will, through voluntary agreement or through appropriate court action, prevent neglect, abuse or exploitation of incapacitated adults. Such services shall include, but not be limited to, supervision, guidance, counseling and, when necessary, assistance in securing of nonhazardous living accommodations, and mental and physical examinations.”

(~~aa~~) “ServiceLink Resource Center” means a network of community-based sites with the common purpose of providing information, referrals, and assistance to connect older adults, adults living with disabilities, and their families and caregivers with resources in their communities.

(~~abaa~~) “Walk-in service” means a session during which a Title III service provider presents educational or informational material to an individual who “drops-in” or “walks-in” to a location, event, or meeting.

(~~aeab~~) “Wait list” means a list of individuals who have been determined eligible, and are ready to receive, a Title III service from a contract agency, but for whom the agency does not have sufficient service units or resources to serve the individuals.

He-E 502.03 Confidentiality. All information on individuals receiving Title III services and programs administered by BEAS or a contract agency shall be kept confidential, and only persons involved in administering Title III services and programs shall review an individual’s information, unless the individual signs an authorization to release the information to another person or organization.

He-E 502.04 Title III Services.

(a) Contract agencies shall determine eligibility and provide services for all Title III services, except adult in-home care for which eligibility shall be determined by BEAS.

(b) Contract agencies shall provide one or more of the following Title III services:

- (1) Adult day program services;
- (2) Adult in-home care services;
- ~~(3) Adult non-medical day program services;~~
- ~~(43)~~ Alcohol and substance abuse prevention services;
- ~~(45)~~ Dental services;
- ~~(56)~~ Elder abuse counseling;
- ~~(67)~~ Home health aide services;
- ~~(78)~~ Homemaker services;
- ~~(89)~~ Legal services;
- ~~(109)~~ Low vision service;
- ~~(1011)~~ Nursing services;
- ~~(1112)~~ Nutrition services: congregate meals;
- ~~(1213)~~ Nutrition services: home delivered meals;
- ~~(1314)~~ Prevention services; and
- ~~(1415)~~ Transportation services.

He-E 502.05 Eligibility Requirements for Services.

(a) To be eligible to receive Title III services, an individual shall:

- (1) Be 60 years of age or older, except as specified in He-E 502.29(c)(1)-(4) Nutrition Services: Congregate Meals and He-E 502.30(c)(1)-(3) Nutrition Services: Home Delivered Meals;
- (2) Meet any other requirements for the specific service or services being requested, as described in He-E 502.18 through He-E 502.32;
- (3) Reside in an independent living situation, or be expected to transition to an independent living situation prior to the initiation of services, with the exception of legal services; and
- (4) Not already be receiving the same or duplicate services from another program such as a Medicaid waiver program.

He-E 502.06 Service Requests and Process.

(a) An individual or his/her authorized representative may request a Title III service(s) from any contract agency that provides the service(s) being requested, except that adult in-home care shall be requested from BEAS.

(b) Individuals or their authorized representatives requesting Title III services shall be required to self-declare their age.

He-E 502.07 Determination, Notice of Eligibility, and Eligibility Period.

(a) An individual shall meet the requirements in He-E 502.05 and 502.06 in order to be deemed eligible to receive Title III services.

(b) For individuals determined eligible to receive Title III services, the eligibility period shall be for one year beginning on the date that eligibility is determined and ending 364 calendar days later.

(c) For individuals determined to be eligible to receive Title III services, a written notice of the eligibility decision shall be provided by the contract agency to the individual no later than 45 calendar days from the date of determination for the following services:

- (1) Adult day program services;
- (2) Adult in-home care services;
- ~~(3) Adult non-medical day program services;~~
- ~~(34)~~ Home health aide services;
- ~~(45)~~ Homemaker services;
- ~~(56)~~ Nursing services; ~~and~~
- ~~(67)~~ Nutrition services: home delivered meals; ~~and-~~
- (7) Nutrition services: congregate meals.

(d) If the eligibility requirements are met, and services are available, the notice shall include:

- (1) The services to be provided, and when;
- (2) The eligibility period; and
- (3) Contact information for the contract agency.

(e) If the eligibility requirements are not met, the notice shall include:

- (1) The reason(s) for the denial;
- (2) A statement regarding the right of the individual or his or her authorized representative to request an informal resolution or appeal of the eligibility determination decision as described in He-E 502.10; and
- (3) Contact information for the contract agency.

(f) If eligibility requirements for Title III services are met but services are not available, the individual shall be notified that his or her name shall be placed on a wait list in accordance with He-E 502.13.

(g) For individuals expected to transition to and reside in an independent living situation, Title III services shall not be provided until the individual physically relocates to an independent living situation.

He-E 502.08 Redetermination of Service Eligibility.

(a) For those individuals determined to be eligible for Title III services, the contract agency shall review the individual's service record annually, as long as service(s) is being provided. The review shall be completed within 30 calendar days prior to the anniversary date on which eligibility began.

(b) The contract agency shall make a decision to continue or terminate the individual's Title III services based on the requirements contained in this rule and document the decision by making a notation in the individual's service record.

He-E 502.09 Termination of Services.

(a) Title III services shall be terminated when:

- (1) The individual no longer meets the eligibility requirements for Title III services as described in He-E 502.05;
- (2) Funding for the service(s) is no longer available;
- (3) The individual no longer requires the service(s);
- (4) The individual or his/her authorized representative requests that the service(s) be terminated;
~~or~~
- (5) The individual relocates to a geographical area outside the service delivery area or to an institutional setting;
- (6) The contract agency's contract to provide services is terminated; or
- (7) The individual expires.

(b) The individual or his/her authorized representative shall be notified in writing by the contract agency when the following services are terminated, reduced, or significantly altered, such as a change to the location of service delivery:

- (1) Adult day program services;
- (2) Adult in-home care services;
- ~~(3) Adult non-medical day program services;~~
- (34) Home health aide services;
- ~~(45)~~ Homemaker services;
- ~~(56)~~ Nursing services; ~~and~~
- ~~(67)~~ Nutrition services: home delivered meals; ~~and-~~
- (78) Nutrition services: congregate meals.

(c) The notice of termination, reduction, or significant alteration shall specify:

- (1) The service(s) to be terminated, reduced, or significantly altered;
- (2) The reason(s) for terminating, reducing, or significantly altering the service(s);
- (3) The date upon which the service(s) shall be terminated, reduced, or significantly altered, which shall be 30 calendar days from the date of the notice, unless a request for an informal resolution or appeal has been filed as described in He-E 502.10; and
- (4) The contact information for the contract agency staff member who completed the notice.

(d) The contract agency shall keep a copy of the termination, reduction, or significant alteration notification in the individual's service record.

(e) The contract agency shall make a notation in the individual's service record when the individual or his/her authorized representative elects to terminate services.

(f) The contract agency shall send written notice to BEAS when services are terminated, reduced or significantly altered, for individuals receiving the following Title III service authorized services:

- (1) Adult day program services;
- (2) Adult in-home care services;
- ~~(3) Adult non-medical day program services;~~
- ~~(34)~~ Home health aide services;
- ~~(45)~~ Homemaker services;
- ~~(56)~~ Nutrition services: congregate meals, and
- ~~(67)~~ Nutrition services: home delivered meals.

(g) The contract agency shall keep a copy of the notice sent in (f) above in the individual's service record.

(h) If a contract agency wishes to terminate services to an eligible individual who is currently receiving services because the contract agency determines that the individual's behavior or living environment creates a health or safety hazard for contract agency staff, then:

- (1) The contract agency shall:
 - a. Forward to BEAS a written notification of the reasons for terminating services, including a summary of the efforts the contract agency has made to resolve the situation;
 - b. Consult with BEAS staff for assistance in determining possible remedies other than termination;
 - c. Following consultation with BEAS, document and report to BEAS the outcome of each additional effort made to resolve the situation;
 - d. Notify BEAS of a final decision to terminate prior to sending the termination notice to the individual; and

e. Document in the individual's service record a description of the individual's behavior(s) or living environment that created a health or safety hazard for contract agency staff, as well as the contract agency's attempts to continue to provide services; and

(2) The contract agency shall send written notice to an individual within 5 business days of notifying BEAS in (1)d. above.

He-E 502.10 Informal Resolution.

(a) An individual who disagrees with an eligibility or termination determination as described in He-E 502.07 or He-E 502.09 may request an informal resolution of the decision, as follows:

(1) The individual, or his/her authorized representative, shall submit a written request to the BEAS bureau director, or designee, within 30 calendar days of the eligibility or termination determination; and

(2) The written request shall include an explanation of the reason why the eligibility or termination determination should be changed, including any supporting documentation.

(b) For individuals currently receiving services, Title III services shall continue during the informal resolution process until a decision is rendered.

(c) The BEAS bureau director, or designee, shall review the request in (a) above and provide a written notice to the individual, or his/her authorized representative, of the decision to maintain or change the original eligibility or termination decision, including the reason therefor.

(d) If the contract agency's or BEAS' decision is not upheld:

(1) Services shall be initiated for individuals requesting services; and

(2) Services for individuals currently receiving Title III services shall continue as long as the Title III eligibility requirements described in He-E 502.05 are met or until the end of the individual's eligibility period.

(e) If the contract agency or BEAS' decision is upheld, services for individuals currently receiving services shall end within 30 calendar days of the bureau director or designee's decision.

(f) Requesting an informal resolution shall not:

(1) Preclude in any way an individual's right to appeal a disputed eligibility or termination determination in accordance with He-C 200; and

(2) Change the timeframes established for filing an appeal.

(g) An individual may appeal the decision of the bureau director or designee in (c) above, in accordance with He-C 200.

He-E 502.11 Contract Agency Requirements.

(a) Agencies wishing to provide Title III services shall be under contract with BEAS to provide such service(s).

(b) Contract agencies shall:

- (1) Comply with all provisions included in the contract with BEAS;
- (2) Determine eligibility for individuals requesting service and comply with notification and other documentation requirements as described in these rules;
- (3) Target outreach and direct services toward one or more of the goals contained in 45 CFR 1321 and 42 U.S.C. 3001 with emphasis placed on serving the groups of individuals described in He-E 502.01(b)(1)-(6);
- (4) Develop person-centered plans as described in He-E 502.17 that encourage the full participation of the individual and/or his or her authorized representative(s) in the service planning and decision making process;
- (5) Coordinate and monitor the provision of services as described in the person-centered plan to ensure there is no duplication of Title III and/or other services being provided to the individual;
- (6) Comply with and make available to BEAS upon request any licensing and/or certification requirements required by applicable federal, state, or local laws and/or rules;
- (7) Maintain the insurance coverage required by applicable state or local laws and/or rules, and provide written proof of such insurance coverage to BEAS;
- (8) Identify an executive director or designee who will oversee the services provided by the contract agency;
- (9) Identify staff who will complete the responsibilities contained in this rule for the service(s) being provided;
- (10) Train and supervise contract agency staff and volunteers on the following:
 - a. The contract agency's policies and procedures;
 - b. The specific Title III services the staff or volunteer will be providing; and
 - c. Any additional training requirements contained in applicable federal and/or state laws and/or rules;
- (11) Comply with all contract requirements regarding the provision of communication access to individuals who are requesting or receiving services covered under this rule;
- (12) Develop procedures for staff responses to emergencies;
- (13) Unless otherwise prohibited by law, develop procedures for reporting suspected abuse, neglect, self-neglect and/or exploitation of incapacitated adults as required by RSA 161-F:46 of the adult protection law;
- (14) Comply with the provisions of RSA 161-F:49 with regard to checking the names of prospective or current employees, volunteers, or subcontractors against the BEAS state registry;
- (15) Have an established written complaint and incident process that may be accessed by individuals, family members, or authorized representatives when an individual is denied services or dissatisfied with the services provided by the contract agency, including:

- a. The name and/or position of the contract agency staff member who coordinates the complaint and incident process;
 - b. The issues that may be addressed through the complaint and incident process;
 - c. How individuals are informed of their right to file a complaint or incident report;
 - d. The procedures to be followed by individuals who wish to file a complaint or incident report with the contract agency;
 - e. The procedures to be followed by the contract agency when reviewing complaints or incidents, and for notifying the individual of the outcome of the review; and
 - f. Information stating that the availability of the complaint and incident process from the contract agency shall not cancel the right of an individual who is denied Title III services to request an informal resolution and/or appeal in accordance with He-E 502.10 and He-C 200;
- (16) Provide information to BEAS when requested regarding individuals receiving services, except for services provided under He-E 502.26 Legal Services;
- (17) Comply with all BEAS service authorization practices and submit claims for payment in accordance with He-E 502.14;
- (18) Comply with all BEAS reimbursement practices and maintain financial records to fully support each claim billed for services;
- (19) Maintain service records in accordance with He-E 502.15 for the specific Title III service(s) being provided;
- (20) Submit fiscal reports to BEAS on a semiannual basis;
- (21) Submit information on the wait list in accordance with He-E 502.13;
- (22) Engage in monitoring and evaluating the quality of the services being provided, which shall include:
- a. Obtaining feedback from the individual or his/her authorized representative and/or from family members as applicable;
 - b. Participating in any quality assurance measures implemented by BEAS; and
 - c. Making changes as necessary to improve the quality and effectiveness of service delivery; and
- (23) When providing nutrition services: home-delivered meals:
- a. Be in compliance with federal, state, and local regulations for food safety, meal preparation, and delivery;
 - b. Employ staff or subcontract with another entity to prepare and deliver meals in accordance with the regulations in a. above;

c. Demonstrate on a quarterly basis that meals are in compliance with the dietary requirements contained in He-E 502.30 by providing BEAS with ~~sample~~ menus which are signed by a registered dietitian or another professional with comparable expertise;

d. Ensure that the ~~driver~~ meal server who delivers meals:

1. Has direct contemporaneous face-to-face contact with each individual; and

2. Reports any observations of unusual circumstances to the designated contract agency supervisor or, in the case of an emergency, calls emergency personnel; and

e. Keep a record of the number of meals authorized for the individual, ~~and~~ the scheduled days of delivery, and the number of meals served.

He-E 502.12 Voluntary Donations.

(a) The contract agency shall not charge fees or bill individuals receiving Title III services.

(b) In accordance with Title III, the contract agency shall provide each individual with an opportunity to voluntarily donate to the cost of the service, as follows:

(1) The contract agency shall clearly inform each individual that there is no obligation to donate, that a donation is purely voluntary, and that the individual shall not be denied services because he or she does not donate; and

(2) The contract agency may suggest an amount for a donation, but shall not use means testing as the basis for the donation or expect the donation to cover the full cost of services.

(c) The contract agency shall also:

(1) Protect the privacy and confidentiality of each individual with respect to the individual's donation or lack of a donation;

(2) Establish appropriate procedures to safeguard and account for all donations; and

(3) Use all donations to support the program for which donations were given.

(d) For individuals with an open APS protective services case as described in He-E 700, the APS program rule, the contract agency shall not attempt to secure additional reimbursement, including donations, of any type from the individual or his/her family members or authorized representative for those services.

He-E 502.13 Wait Lists.

(a) All services covered by He-E 502 shall be provided to the extent that funds, staff, and/or resources for this purpose are available.

(b) The contract agency shall maintain a wait list for Title III services when funding or resources are not available to provide the services, except that a wait list for Title III group educational or walk-in services shall not be required.

(c) The wait list shall be maintained for individuals:

(1) Who are newly eligible and ready to receive services;

(2) Who are already receiving services and are requesting additional services; and

(3) Who relocate outside of the catchment area for the contract agency providing services and are requesting Title III services from a contract agency in the new location.

(d) Each contract agency shall include the following information on its wait list:

- (1) The individual's full name and date of birth;
- (2) The name of the Title III service being requested;
- (3) The target date, if known, of implementing the services based on the communication between the individual and the contract agency;
- (4) The date upon which the individual's name was placed on the wait list, which shall be the date of the notice of decision in which the individual was determined eligible for Title III services;
- (5) The individual's assigned priority on the wait list, determined in accordance with (e) below; and
- (6) If the individual is already receiving a Title III service, the type and amount of the services received.

(e) The contract agency shall prioritize each individual's standing on the wait list by determining the individual's urgency of need in the following order:

- (1) Individual has an open APS protective services case;
- (2) Individual is not already receiving services through one of DHHS' Medicaid waiver programs, or who may be eligible for other NH Medicaid services;
- (3) Individual is identified by Title III as belonging to one of the following groups, as described in He-E 502.01(b)(1)-(6):
 - a. Individuals with severe disabilities;
 - b. Low income minority ~~elderly~~older individuals;
 - c. Native Americans;
 - d. ~~Elderly~~Elderly-Older individuals in greatest social or economic need;
 - e. ~~Elderly~~Elderly-Older individuals residing in rural areas; and
 - f. ~~Elderly~~Elderly-Older individuals with limited English proficiency;
- (4) Individual is at risk of being admitted to an institutional setting due to:
 - a. Declining mental or physical health of the caregiver;
 - b. Declining mental or physical health of the individual; or
 - c. Individual living with a caregiver who is in need of substitute or respite care due to the temporary incapacity, illness, or unavailability of the regular caregiver;
- (5) Length of time on the wait list; and

(6) Individual is transitioning from an institutional setting.

(f) When 2 or more individuals on the wait list have been assigned the same service priority, the individual served first will be the one with the earliest eligibility determination date.

(g) The individual may reserve the right to remove his/her name from the wait list at any time and/or apply for Title III services with another contract agency.

(h) When an individual is placed on the wait list, the contract agency shall notify the individual in writing and include the following information:

(1) A statement that Title III services are not covered because funds, staff, or resources are unavailable;

(2) A brief description of the contract agency's wait list process;

(3) The estimated period of time that the contract agency expects the individual to remain on the wait list;

(4) A statement that notifies the individual of the right to remove his/her name from the wait list and to request Title III services with another contract agency;

(5) A statement that directs the individual to the specified NH ServiceLink toll-free telephone number for more information on other contract agencies in the individual's catchment area that provide the Title III service being requested;

(6) The contact information for the contract agency(ies); and

(7) A statement requesting that the individual notify the contract agency if his/her service needs change or if the individual begins to receive the requested Title III service from another contract agency.

(i) Upon becoming aware of availability to provide a Title III service, the contract agency shall immediately call and send written notice to the individual requesting Title III services based on the priority outline in (e) above and, if appropriate, the assigned APS protective social worker.

(j) The individual shall respond to the contract agency within 10 business days of the date on the written notice, indicating whether or not they still wish to receive the Title III services.

(k) If the individual does not respond within 10 business days, the contract agency shall no longer be obligated to provide Title III services to that individual.

(l) The individual may make another request for Title III services in accordance with He-E 502.06 and 502.07.

He-E 502.14 Service Authorization.

(a) Once the individual has been determined eligible to receive Title III services, the following Title III services shall be authorized by the contract agency, acting on behalf of BEAS, in order for the individual to receive services funded by Title III:

(1) Adult day program services;

(2) Adult in-home care services;

~~(3) Adult non-medical day program services;~~

(43) Home health aide services;

(54) Homemaker services;

(65) Nutrition services: congregate meals; and

(67) Nutrition services: home delivered meals.

(b) Service authorizations shall consist of the specific types of services required to meet the needs identified on the individual's person-centered plan.

He-E 502.15 Service Records.

(a) Contract agencies shall maintain a service record for all individuals receiving one or more Title III services except as provided in (h) below.

(b) The service record shall contain:

(1) The individual's name, address, and telephone number;

(2) A notation that the individual meets the eligibility requirements for services as described in He-E 502.05;

(3) An annual notation of the decision to recertify or terminate services as described in He-E 502.08;

(4) Notation of the following:

a. The name of the Title III service(s) being provided and the type of service activities, based on the service description contained in this rule;

b. The dates of service provision and the number of service units provided;

c. Identification of the individual's communication access needs, including type and modality, and the name of the communication access provider or type of device utilized, if applicable; and

d. Any other information and/or correspondence deemed relevant to service provision; and

(5) The service authorization as described in He-E 502.14(a), if applicable.

(c) The following services shall require additional documentation in the service record:

(1) Adult in-home care services;

~~(2) Adult non-medical day program services;~~

(32) Home health aide services;

(43) Homemaker services;

(54) Nursing services; and

(56) Nutrition services: home delivered meals.

(d) The additional documentation specified in (c) above shall include:

- (1) A copy of the notice of decision for the provision of service(s) as described in He-E 502.07, as applicable;
- (2) The name and telephone number of a person who may be contacted in an emergency;
- (3) The name, address, and telephone number of the individual's primary caregiver, if applicable;
- (4) The name and telephone number of the individual's licensed practitioner, if applicable;
- (5) Documentation of changes in the individual's health or other circumstances affecting service provision;
- (6) A copy of any termination notification(s) to the individual and BEAS as described in He-E 502.09, if applicable, or a notation that the individual voluntarily terminated services;
- (7) The person-centered plan as described in He-E 502.17;
- (8) The dates upon which service(s) will begin and end;
- (9) The planned frequency of the service(s);
- (10) The total number of service units that will be provided on each date of service, if appropriate; and
- (11) Copies of all executed legal directives, such as guardianship orders for health care under RSA 464-A, a durable power of attorney or a living will, or any advanced directives under RSA 137-J.

(e) Contract agencies providing adult day program services shall be required to comply with all documentation requirements as described in He-P 818, in addition to the requirements outlined in He-E 502.15(b).

(f) Service records shall be kept confidential in accordance with He-E 502.03 and all applicable federal and state laws and/or regulations.

(g) Service records shall be retained for a period of 4 years after services have ended or have been terminated.

(h) No service record shall be required for individuals receiving only group educational or walk-in services, or telephone services as described in He-E 502.26 Legal Services.

He-E 502.16 Cessation of Title III Services by a Contract Agency.

(a) When a contract agency decides to terminate its contract for a Title III service, the agency shall provide written notification to BEAS in accordance with the terms of the contract.

(b) The contract agency shall develop and submit a transition plan for services under the agreement, including, but not limited to, identifying the present and future needs of individuals receiving services under the agreement and establishing a process to meet those needs in accordance with the terms of the contract.

(c) The contract agency shall also comply with any other provisions contained in its contract with respect to the cessation of Title III services.

He-E 502.17 Person-Centered Plan.

(a) Contract agencies providing the Title III services described in this rule shall develop a person-centered plan for individuals receiving one or more of the following services:

- (1) Adult day program services;
- (2) Adult in-home care services;
- ~~(3) Adult non-medical day program services;~~
- ~~(4)~~ (3) Home health aide services;
- ~~(5)~~ (4) Homemaker services;
- ~~(6)~~ (5) Nursing services; and
- ~~(7)~~ (6) Nutrition services: home-delivered meals.

(b) The person-centered plan shall be based on the individual's needs and developed with input from the individual and/or his or her authorized representative so that services are designed, scheduled, and delivered to best meet the needs and preferences of the individual, and the individual is supported as a full participant in the service planning and decision-making process.

(c) The person-centered plan shall include:

- (1) Identification of the anticipated needs, goals, and outcomes of service provision from the perspective of the individual;
- (2) Documentation that the person-centered plan was developed with input from the individual and/or his or her authorized representative;
- (3) Documentation, as appropriate, to reflect the person-centered plan is responsive to the changing needs of the individual; and
- (4) Information on the individual's health condition, medications, allergies, and special dietary needs as appropriate to the service being provided in order to assess the individual's service needs and to coordinate service.

(d) The contract agency shall provide service to individuals based on the person-centered plan.

(e) The person-centered plan shall be updated annually or whenever there is a change in the individual's living arrangement or health status, or a change requested by the individual and agreed to by the parties.

(f) In addition to the requirements in (c) above, contract agencies providing adult day program services shall be required to comply with all care plan requirements described in He-P 818.

(g) In addition to the requirements in (c) above, for individuals receiving home-delivered meals, the person-centered plan shall include:

- (1) The number of meals to be delivered and when the meals are to be delivered;

- (2) Documentation of any other special needs or factors that could impact service provision; and
- (3) Consideration of the individual's nutritional needs, including to the extent possible, any special dietary needs and preferences.

He-E 502.18 Adult Day Program Services.

- (a) Contract agencies providing adult day program services shall:
 - (1) Be licensed and comply with all duties and responsibilities of licensees as required in He-P 818;
 - (2) Provide the required services described in He-P 818; and
 - (3) Maintain records as described in He-P 818.
- (b) In order for an individual to be eligible to receive Title III adult day program services, the individual's licensed practitioner shall:
 - (1) Complete a physical examination on the individual within 60 calendar days prior to the request for services; and
 - (2) Refer the individual for adult day program services, because the individual:
 - a. Has been diagnosed as having an illness or disability; and
 - b. Requires adult day program services.
- (c) Adult day program services shall not be available to anyone:
 - (1) Who resides in a nursing facility or other licensed or certified facility;
 - (2) Who receives adult family care services pursuant to He-E 801.14;
 - (3) Whose needs cannot be met by the adult day program; or
 - (4) Who is primarily seeking services to support needs related to a diagnosis of mental illness or developmental disability.

He-E 502.19 Adult In-Home Care Services.

- (a) To be eligible for adult in-home care services, the individual shall have an open APS protective services case and be assessed to be in need of adult in-home care services by an adult protective services social worker.
- (b) Adult in-home care services shall be provided by employees of:
 - (1) Home health care providers licensed in accordance with RSA 151:2 and He-P 809;
 - (2) Home care service providers licensed in accordance with RSA 151:2 and He-P 822; or
 - (3) Other qualified agencies certified in accordance with RSA 161-I and He-P 601.
- (c) Contract agencies providing adult in-home care services shall provide the following core household maintenance tasks based on the individual's needs including:

- (1) Housecleaning;
 - (2) Laundry;
 - (3) Maintaining a safe environment in areas of the home used by the individual;
 - (4) Meal preparation for the individual only and not for other members of the household;
 - (5) Rearranging light-weight furniture to assure the individual can safely ambulate to reach food, water, medication, and other essential items;
 - (6) Shopping for groceries and other errands for the individual receiving services only; and
 - (7) Instructing the individual to perform core household maintenance tasks necessary to maintain the individual's well-being, safety, and independence.
- (d) Contract agencies providing adult in-home care services shall facilitate one or more of the following activities of daily living and/or instruction in self-care, based on the individual's needs including:
- (1) Bathing;
 - (2) Dressing;
 - (3) Eating and drinking;
 - (4) Grooming;
 - (5) Taking medication as allowed in He-P 809 and He-P 822; and
 - (6) Toileting.
- (e) Contract agencies providing adult in-home care services shall:
- (1) Provide and encourage socialization; and
 - (2) Evaluate the individual's progress and when necessary, provide information about, and referral to, other resources.
- (f) Contract agencies shall coordinate adult in-home care services to ensure that there is no meal preparation being provided when home delivered meals will be delivered to the individual, and that there is no duplication of additional Title III and/or other services being provided to the individual.
- (g) At least every 3 months the contract agency shall meet with a BEAS adult protective services staff person or communicate by telephone or email in order to assess:
- (1) The status of each individual receiving adult in-home care services; and
 - (2) Whether any changes are needed regarding the type and/or frequency of service being provided.
- (h) If the individual continues to have an open APS protective services case beyond 6 months, the adult protective services social worker shall confer with the appropriate BEAS staff to assess the individual's appropriateness for the other assistance programs.

~~(a) Adult non-medical day program services shall include the following activities or services, based on the individual's needs:~~

~~(1) A nutritious meal;~~

~~(2) Support of the individuals' needs for socialization, supervision, and activities within a structured environment; and~~

~~(3) Referral to other resources and programs as needed.~~

~~(b) Contract agencies that provide adult non-medical day program services shall:~~

~~(1) Provide services in a community-based setting;~~

~~(2) Have staff on site to provide the services described in (a) above;~~

~~(3) Comply with state and local requirements for health and safety; and~~

~~(4) Provide to the individual, family members, or others upon request:~~

~~a. Both an oral and a written description of the requirements for admission to the adult non-medical day program, as well as emergency evacuation plans; and~~

~~b. Notification regarding any changes to these requirements.~~

He-E 502.21 Alcohol and Substance Abuse Prevention Services

(a) A contract agency shall administer alcohol and substance abuse prevention services, as follows:

(1) Within the contract agency, a prevention specialist certified by the Prevention Certification Board of New Hampshire shall oversee the provision of alcohol and substance abuse prevention services; and

(2) The prevention specialist's certification shall be kept current in accordance with the requirements of the Prevention Certification Board of New Hampshire .

(b) Alcohol and substance abuse prevention services shall include:

(1) Brief intervention and counseling provided by counselors from New Hampshire's community mental health centers, and as follows:

a. There shall be subcontracts for this purpose between the mental health centers and the contract agency administering alcohol and substance abuse prevention services;

b. Oversight and training of counselors shall be provided by the contract agency administering alcohol and substance abuse prevention services; and

c. A maximum of 5 counseling sessions per individual shall be provided, and for each individual:

1. Screening shall be completed and documented by the counselor using age-appropriate evidence-based screening tools identified by the contract agency administering alcohol and substance abuse prevention services;

2. Goals shall be identified and strategies for accomplishing these goals shall be developed, including referrals to other resources as needed; and

3. A record shall be kept by the counselor of all visits with the individual;

(2) Group educational programs, which shall be held in community-based locations, and address topics such as:

a. Preventing and/or alleviating the misuse of alcohol, medications or other drugs;

b. Life changes;

c. Depression, and/or emotional stress;

d. Grief and loss;

e. Opportunities to reduce isolation, improve social interaction and interpersonal relationships; and

f. Other issues that enhance an individual's ability to live independently, such as home safety and injury prevention; and

(3) Outreach services to encourage individuals to participate in group educational programs.

(c) Contract agencies providing alcohol and substance abuse prevention services shall:

(1) Provide resource materials that are specific to preventing and/or alleviating substance misuse among ~~elderly-adult~~solder individuals, and, at the option of the contract agency, resource materials on the other issues identified in (b)(2) above; and

(2) Provide handouts for individuals related to the group educational sessions described in (b)(2) above.

(d) The contract agency administering alcohol and substance abuse prevention services shall keep a log of each group educational activity that includes:

(1) The date of the group educational activity;

(2) The topic of the group educational activity; and

(3) The names of attendees.

(e) The contract agency administering alcohol and substance abuse prevention services shall conduct evaluations on the effectiveness of these services and provide the results of these evaluations annually to BEAS.

(f) The contract agency administering alcohol and substance abuse prevention services shall complete quarterly program reports.

He-E 502.22 Dental Services.

(a) Dental services shall include:

(1) Oral exams, including cancer screenings, which are performed to detect and prevent dental diseases and to identify an individual's dental care needs;

- (2) Cleanings;
 - (3) Restorations;
 - (4) Prostheses, such as dentures and partial dentures;
 - (5) Surgical procedures to address infections;
 - (6) Education regarding dental health; and
 - (7) When necessary, referrals to other dental or medical services.
- (b) Dental services shall be provided by contract agencies or vendors that:
- (1) Meet the requirements contained in He-E 502.11 and in any other applicable state laws and/or rules; and
 - (2) Employ staff members who are licensed by the NH board of dental examiners in accordance with RSA 317-A.
- (c) Contract agencies providing dental services may utilize students enrolled in accredited dental hygiene and dental care programs to assist in the provision of dental care services provided that these students are supervised by contract agency staff that is licensed in accordance with applicable state laws or rules.
- (d) For each individual receiving dental services:
- (1) An assessment shall be completed and documented;
 - (2) Goals shall be identified and an individual treatment plan developed; and
 - (3) Progress notes shall be made by the staff member after each dental visit.
- (e) Dental work done only for aesthetic purposes shall not be covered.

He-E 502.23 Elder Abuse Counseling.

- (a) Elder abuse counseling services shall meet the needs of individuals who require assistance in resolving problems and/or relieving temporary stresses. Problems addressed may include elder abuse, neglect, self-neglect, exploitation, or physical harm inflicted.
- (b) Contract agencies conducting elder abuse counseling shall provide the following services:
- (1) Assisting and supporting individuals in resolving problems and relieving stress;
 - (2) Providing one-on-one or group educational sessions; and
 - (3) Group educational service programs for individuals on topics concerning the prevention of elder abuse, neglect or self-neglect, and exploitation.
- (c) Elder abuse counselors shall be licensed as social workers or mental health practitioners by the State of New Hampshire in accordance with RSA 330-A, and have a working knowledge of effective geriatric assessment tools, mental health issues affecting ~~the elderly~~older individuals, and elder abuse treatment resources.

(d) For each individual receiving elder abuse counseling:

- (1) An assessment shall be completed and documented;
- (2) Goals shall be identified and an individual treatment plan developed; and
- (3) Progress notes shall be made by the counselor following each counseling session.

(e) Contract agencies providing elder abuse counseling services shall keep a service provision log of all group educational activities that includes:

- (1) The date of the group educational activity provided;
- (2) The type of the group educational activity provided;
- (3) The names of the attendees; and
- (4) Comment on any follow-up action as needed.

He-E 502.24 Home Health Aide Services.

(a) Home health aide services shall be provided by a home health care provider licensed in accordance with RSA 151:2 and He-P 809.

(b) Home health aide services shall be covered when provided by a licensed nursing assistant (LNA) working within the LNA scope of practice, pursuant to Nur 700.

(c) The following home health aide services shall be covered based on the individual's need:

- (1) Services allowed within the LNA scope of practice, pursuant to Nur 700; and
- (2) Personal care services, as described in He-E 801.22(b), when the individual's person-centered plan contains documentation that his or her functional or medical condition necessitates the performance of such tasks by an LNA and not an unlicensed provider.

(d) Contract agencies shall coordinate home health aide services to ensure that there is no duplicate provision of services when the individual is also receiving home delivered meals, other Title III services, or services at an adult medical day program, in an assisted living facility, or in an adult family care home.

He-E 502.25 Homemaker Services.

(a) Homemaker services shall be provided by employees of:

- (1) Home health care providers licensed in accordance with RSA 151:2 and He-P 809;
- (2) Home care service providers licensed in accordance with RSA 151:2 and He-P 822; or
- (3) Other qualified agencies certified in accordance with RSA 161-I and He-P 601.

(b) Contract agencies providing homemaker services shall provide the following core household maintenance tasks based on the individual's needs, including:

- (1) Housecleaning;
- (2) Laundry;

- (3) Maintaining a safe environment in areas of the home used by the individual;
- (4) Preparation of non-communal meals;
- (5) Rearranging light-weight furniture to assure the individual can safely ambulate to reach food, water, medication, and other essential items;
- (6) Shopping for groceries and other errands; and
- (7) Instructing the individual to perform core household maintenance tasks necessary to maintain the individual's well-being, safety, and independence.

(c) Contract agencies providing homemaker services shall facilitate one or more of the following activities of daily living and/or instruction in self-care, based on the individual's needs including:

- (1) Bathing;
- (2) Dressing;
- (3) Eating and drinking;
- (4) Grooming;
- (5) Taking medication as allowed in He-P 809 and He-P 822; and
- (6) Toileting.

(d) Contract agencies providing homemaker services shall:

- (1) Provide and encourage socialization; and
- (2) Evaluate the individual's progress and when necessary, provide information about, and referral to, other resources.

(e) Contract agencies shall coordinate homemaker services to ensure that there is no meal preparation being provided when home delivered meals will be delivered to the individual, and that there is no duplication of additional Title III and/or other services being provided to the individual.

He-E 502.26 Legal Services.

(a) Legal services shall be provided to individuals who are in need of assistance from a paralegal or attorney as described in Title III, and include:

- (1) The provision of statewide telephone access through a toll-free number;
- (2) Performing community outreach and education, including the provision of written materials to increase awareness of legal rights and legal services; and
- (3) The provision of legal advice, counseling, and litigation services by attorneys, or legal assistants working under the supervision of an attorney, in accordance with the administrative rules of the Supreme Court of the State of NH to address civil matters including, but not limited to:
 - a. Consumer issues relating to debt collection, financial exploitation, and health care services;

- b. Family matters;
- c. Matters involving public assistance benefits;
- d. Matters involving utility shut-off;
- e. Nursing facility and assisted living facility issues;
- f. Public and private housing matters;
- g. The provision of legal representation at hearings or in court; or
- h. The provision of referral services to other sources of local assistance.

(b) For each individual receiving counseling and litigation legal services, a case record shall be developed and maintained and case notes be kept as required by He-E 502.15 following each counseling or litigation session.

(c) Contract agencies providing legal services shall keep a service provision log of all telephone, walk-in, and group educational activities which includes:

- (1) The date of the telephone call, walk-in, or group educational activity;
- (2) The type of interaction provided;
- (3) The name of the individual(s) counseled; and
- (4) Comment on any follow-up service provided.

He-E 502.27 Low Vision Services.

(a) Low vision services shall be provided to individuals who are blind or visually impaired in order to help them perform activities of daily living and attain an optimal level of independence and quality of life.

(b) Contract agencies providing low vision services shall include the following activities, based on the individual's needs:

- (1) Vision rehabilitation, including the evaluation, diagnosis, and management of visual impairment;
- (2) Mobility, optical aid, and orientation training;
- (3) Counseling on adjustment to vision loss, including referrals to support groups and other appropriate community services; and
- (4) The prescription of optical, non-optical, electronic devices, and/or other treatments.

(c) Low vision services shall be provided by a licensed practitioner appropriate to the service being delivered.

(d) For each individual receiving low vision services:

- (1) An assessment shall be completed and documented;
- (2) Goals shall be identified and an individual treatment plan developed; and

(3) Progress notes shall be made by the licensed practitioner following each visit session.

He-E 502.28 Nursing Services.

(a) Nursing services shall be provided in an individual's home by a home health care provider licensed in accordance with RSA 151:2 and He-P 809.

(b) Nursing services shall be covered when provided by a licensed practical nurse (LPN) or registered nurse working within the scope of services allowed under the Nurse Practice Act, RSA 326-B.

(c) The following nursing services shall be covered based on the individual's need:

(1) Receiving referrals;

(2) Evaluation of the individual's needs;

(3) Developing a nursing care plan and incorporating this information into the individual's person-centered plan; and

(4) Providing nursing services in accordance with the individual's person-centered plan as described in He-E 502.17 and ordered by his or her physician.

(d) Contract agencies shall coordinate nursing services to ensure that there is no duplicate provision of services.

(e) LPN and registered nursing services shall not be covered when provided for the purpose of nursing oversight of authorized LNA services.

He-E 502.29 Nutrition Services: Congregate Meals.

(a) Contract agencies providing congregate meals shall:

(1) Provide meals in a congregate setting that affords opportunity for social contact; and

(2) Comply with state and local regulations on the safe and sanitary handling of food, equipment and supplies used in the storage, preparation, service, and delivery of meals as described in He-P 2300.

(b) Congregate meals shall include at least one hot or other appropriate meal per day for 5 or more days per week except in a rural areas where such frequency is not feasible and a lesser frequency is approved by BEAS.

(c) Contract agencies approved to provide services at a lesser frequency pursuant to (b) above shall keep the approval on file.

(ed) Each meal shall:

(1) Include a minimum of 33 1/3 percent of the dietary reference intakes based on age and gender established by the Food and Nutrition Board of National Academies of Sciences, Engineering, and Medicine as described in and comply with the most recent "Dietary Guidelines for Americans, 2010" issued-published by the U.S. Department of Agriculture and the U.S. Department of Health and Human Services, available as noted in Appendix A; and

(2) Accommodate, to the extent possible, the special dietary needs and/or preference of the individual, including recommendations from the individual's licensed practitioner, and/or preferences stemming from the individual's cultural or religious background.

(de) In addition to offering congregate meals to individuals who meet the eligibility requirements contained in this rule, contract agencies providing this service may also offer a meals, on the same basis as meals provided to eligible older individuals, to:

- (1) The spouses of individuals who accompany them to the meal site;
- (2) Persons providing volunteer services as part of the meal service at the congregate meal site during meal hours;
- (3) Persons with disabilities under the age of 60 who reside at home with an individual who is receiving Title III services; and
- (4) Persons with disabilities under the age of 60 who reside in housing facilities occupied by ~~elderly~~older individuals where congregate meals are provided.

(ef) Contract agencies providing nutrition services: congregate meals shall keep a service provision log of all meals that includes:

- (1) The date of the meal;
- (2) The name of the person the meal was provided to; and
- (3) Comment on any follow-up service provided.

He-E 502.30 Nutrition Services: Home-Delivered Meals.

(a) Home-delivered meals shall be provided to individuals who:

- (1) Meet the eligibility requirements contained in He-E 502.05; and
- (2) Can demonstrate that they ~~cannot have limited capacity to~~ prepare meals without assistance; and
- ~~(3) Are homebound or temporarily homebound due to recovery from illness or injury.~~

(b) Contract agencies providing home-delivered meals shall:

- (1) Comply with state and local regulations on the safe and sanitary handling of food, equipment and supplies used in the storage, preparation, service, and delivery of meals as described in He-P 2300; and
- (2) Accommodate, to the extent possible, the special dietary needs and/or preference of the individual, including recommendations from the individual's licensed practitioner, and/or preferences stemming from the individual's cultural or religious background.

(c) Each meal shall include at least a minimum of 33 1/3 percent of the dietary reference intakes ~~based on age and gender established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences, Engineering and Medicine and comply with as described in the most recent "Dietary Guidelines for Americans, 2010" issued~~published by the U.S. Department of Agriculture and the

U.S. Department of Health and Human Services; [“Dietary Guidelines for Americans, 2020-2025” \(Ninth Edition\)](#), available as noted in Appendix [AB](#).

(d) In addition to offering home-delivered meals to individuals who meet the eligibility requirements contained in this rule, contract agencies providing this service may also offer meals to:

- (1) The spouses of individuals;
- (2) Persons providing volunteer service through a volunteer service program such as the RSVP or Senior Companion Program who are working at the recipient’s home during meal hours or volunteering during the service delivery process;
- (3) Persons with disabilities who are under the age of 60 who reside at home with an individual who is receiving Title III services; and
- (4) ~~Homebound~~ Persons with disabilities under the age of 60 who reside in housing facilities occupied primarily by ~~elderly~~ older individuals at which congregate meals are provided.

(e) The contract agency providing home-delivered meals shall at least 3 times per year distribute to all individuals receiving home-delivered meals, educational materials on nutrition and wellness, including, but not limited to, the following:

- (1) Printed materials available at no cost from federal, state, or local government sources or from other agencies; or
- (2) Information provided by the contract agency through another venue, such as a newsletter.

(f) The contract agency shall provide individuals referrals ~~of individuals as necessary~~ to other services or programs as necessary.

(g) Contract agencies shall coordinate the provision of home delivered meals to ensure that there is no duplication of services when additional Title III and/or other services are being provided to the individual, and that the individual is present to receive the meal. Meals that are delivered to an individual’s home when the individual is not at home shall not be reimbursed.

(h) Contract agencies providing home-delivered meals shall keep a service provision log of all meals delivered that includes:

- (1) The date of the meal;
- (2) The name of the person the meal was delivered to; and
- (3) Comment on any follow-up service provided or referrals to other services.

He-E 502.31 Prevention Services.

(a) Prevention services shall be covered for individuals who meet the eligibility requirements for Title III services as described in He-E 502.05;

(b) Prevention services shall include, but not be limited to:

- (1) Evidence-based health screenings that can detect the presence of, or an individual’s risk for, heart disease, diabetes, cancer, asthma, strokes, vision loss, hearing loss, or other chronic diseases or conditions;

- (2) Evidence-based group educational programs and/or individual counseling on topics such as nutrition, exercise, mobility, medication management, pain management, home safety, the emotional aspects of chronic disease or conditions, or other related topics;
 - (3) Individual assessments and the development of individual action plans to help prevent injuries and/or prevent or manage chronic diseases or conditions; and
 - (4) Referrals to other service providers as necessary, including health care providers who can follow up on further prevention and/or treatment of chronic diseases or conditions.
- (c) For each individual receiving prevention services that include individual counseling, assessments, and/or action plans:
- (1) An assessment shall be completed and documented;
 - (2) Goals shall be identified and an individual treatment plan developed; and
 - (3) Progress notes shall be made by the counselor following each contact and/or session.
- (d) Contract agencies providing prevention services shall keep a service provision log for health screenings, referrals, group educational services, or walk-in service activities that includes:
- (1) The date of the activity;
 - (2) The type of activity or service provided;
 - (3) The name(s) of the attendee(s) or service recipient(s); and
 - (4) Comment on any follow-up service provided.

He-E 502.32 Transportation.

- (a) Transportation services shall be covered for the purpose of accessing the following types of services:
- (1) Title III services, except home delivered meals;
 - (2) Medical appointments;
 - (3) Shopping for groceries and other basic needs; and
 - (4) Services provided by community facilities and agencies that increase participation in programs, and otherwise promote independent living as specified in the individual's person-centered plan.
- (b) Contract agencies providing transportation services shall comply with provisions included in the contract with regard to routes and reimbursements.
- (c) Transportation services shall be provided in vehicles that are:
- (1) Registered pursuant to Saf-C 500;
 - (2) Inspected pursuant to Saf-C 3200, and are in good working order; and
 - (3) Insured for personal liability.
- (d) Transportation services shall be provided by individuals who:

(1) Have a current and valid driver's license; and

(2) Are employees of a Title III service provider or other transportation provider, or volunteers under the supervision of a Title III service provider.

(e) Contract agencies shall document transportation services provided to the individual on an operational schedule or on a service provision log that includes:

(1) The date(s) of service;

(2) The starting and ending locations;

(3) The name(s) of the individual(s);

(4) The reason the transportation services are required;

(5) The name(s) of the driver; and

(6) Comment on any follow-up service provided.

(f) Transportation services for individuals shall not be reimbursed when duplicative of any other program or services, or when included as a core service under the rate paid to the service provider.

APPENDIX

Rule	Specific State Statute the Rule Implements
He-E 502.01- He-E 502.32	RSA 161-F:4; 42 USC 3001 et. seq.

APPENDIX B: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-E 502.29(d)(1) & He-E 502.30(c)	US Department of Agriculture & Health and Human Services "Dietary Guidelines for Americans, 2020-2025." (Ninth Edition)	<p>Publisher: U.S. Department of Agriculture</p> <p>Available free of charge at https://www.dietaryguidelines.gov.</p> <p>This publication can also be ordered by calling the U.S. Government Publishing Office (GPO) at (866) 512-1800 and asking for stock number 001-000-04866-0, or by accessing the GPO Online Bookstore at http://bookstore.gpo.gov.</p>